

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

ORDER

Before the Court is Plaintiffs' Renewed Motion to Compel (ECF No. 324), which is fully briefed. The Court previously conducted a hearing on all issues and finds no need for further argument.

During its oral ruling on April 21, 2021, the Court permitted Plaintiffs to renew their motion to compel if, after utilizing discovery means permitted by the Court to obtain the factual information contained in the privileged document, Plaintiffs could make the requisite showing of “undue hardship” under Federal Rule of Civil Procedure 26(b)(3)(A)(ii). ECF No. 247 at 18. In their renewed motion, Plaintiffs failed to make that showing because: (1) Defendant responded appropriately to the interrogatories and provided the underlying factual information contemplated by the Court at the time of its oral ruling; (2) those responses are not “overly lawyered” and provide the relevant factual information, including the calculation and the conclusion; and (3) Defendant properly denied the request for admission, because the request for admission used language that permitted Defendant to reasonably and truthfully deny the request. While the privileged email

does dictate certain admissions, the Court agrees with Defendant that this particular request for admission is an overreach that goes beyond what is necessarily proven by the email. In short, Plaintiffs have been provided a full and fair opportunity to obtain the relevant factual information, and Plaintiffs will not suffer undue hardship by failing to obtain the privileged document itself.

Plaintiffs' Renewed Motion to Compel (ECF No. 324) is DENIED.

SO ORDERED this 23rd day of September, 2021.



Jodi F. Jayne
JODI F. JAYNE, MAGISTRATE JUDGE
UNITED STATES DISTRICT COURT